

RCS No.256/2014
Pandurang Aghav
and other Vs.
Dilip Kothmire
CNR No.MHOS130008012014

ORDER BELOW EXH.100

(Passed on 07th November, 2025)

This is an application filed by the plaintiff to recall the defendant's witness No.1 (defendant himself) for the re-cross examination.

02. The plaintiff submitted that, defendant has filed his evidence affidavit in lieu of chief-examination at Exh.51 and cross-examination upon the evidence affidavit is completed on 19.08.2019. After that on 07.12.2021, defendant has filed the statement recorded and inquiry held before Asst. Registrar Co-operative Society along with the list of documents below Exh.74. After that, defendant has filed along with the list below Exh.98 certified copy of the statement recorded before, Asst. Registrar Co-operative Society. At the time of cross-examination of defendant this document was not on record hence, plaintiff failed to ask the question in respect of this document to the defendant during cross-examination. Hence, it is necessary to recall the defendant to cross-examine him upon the said document. It is necessary for the adjudication of matter properly. Therefore, it is necessary for the plaintiffs to cross-examine the witness further on the same point for the clarification. If the witness would not cross-examined plaintiff will suffer from irreparable loss.

03. The defendant has filed his say on the overleaf of the

application and stated that, defendant has filed said document below Exh.39 on 06.10.2017. Also plaintiff has already asked above the said document to the defendant during his cross-examination. Plaintiff try to hide the real situation. Plaintiff has filed the said document below Exh.29 before cross-examination of the defendant. Also documents filed along with the list below Exh.98, plaintiff has already cross-examined to the defendant on the said document. Plaintiff has filed the present application only to prolong the matter. He is prayed to reject the application.

04. Perused application, say, record and heard counsel for the plaintiff and defendants. It appears that, plaintiff has cross-examined to the defendant below Exh.51 on 19.08.2019. After that plaintiff has filed the certified copy of the decision of the Asst. Registrar Co-operative Society below Exh.74 on 17.12.2021 and filed the copy of the statement recorded before Asst. Registrar Co-operative Society below Exh.98 on 05.12.2024. As per the defendant contention, he has filed the same documents before cross-examining the defendant below Exh.39. After perusing the list of document filed below Exh.39 and 74 it appears that both documents are same. Even though plaintiff has filed the copy of the decision previously below Exh.39 and he has filed the same certified copy below Exh.74 before the cross-examination of defendant but after the perusal of documents filed along with the list below Exh.98 it appears that defendant has filed the statement of the witnesses recorded before the Asst. Registrar Co-operative Society after the cross-examination of defendant i.e. on 05.12.2024, also perusal of the cross-examination of defendant it seems that defendant has not asked any question relating to the

documents filed below Exh.98 on 05.12.2024. Therefore, in the interest of justice it is necessary to give the an opportunity to the plaintiff to recall the defendant for the cross-examination on the document of filed along with the list below Exh.98. If the application is rejected possibility to cause the irreparable loss to the plaintiff can not be denied hence, for the clarification it is necessary to allow the application only on the documents filed along with list below Exh.98. Accordingly, I pass the following order :

ORDER

1. Application below **Exh.100** is partly allowed.
2. Plaintiff is allowed to recall the defendant for the re- cross-examination below **Exh.51** only on the documents filed along with list below **Exh.98**.
3. Both parties to take a note.

Date:- 07.11.2025

(Smt. Ashlesha S. Mate)
2nd Jt. Civil Judge Jr. Dn.,
Bhoom.

CERTIFICATE

I affirm that, the contents of this P.D.F. file order are same, word to word, as per the original order.

Name of Stenographer	...	N. V. Koli Stenographer Grade-III
Court	...	2 nd Jt. Civil Court Jr. Dn., Bhoom
Date	...	07.11.2025
Order signed by the Presiding Officer on	...	07.11.2025
Order uploaded on	...	07.11.2025